Court No. 2

In the High Court of Uttaranchal at Nainital.

Civil Misc. Writ Petition No. 7228 (S/S) of 2001.
(Old No. 4707 of 1992)

(1) Devendera Singh S/o Dilver Singh
Working as Assistant Engineer with
Mussioorie-Dehradun Development Authority,
Dehradun,
(2) Sanjeev Kumar Agarwal S/o Satish Chandra Agarwal
(3) Trepan Singh S/o V.P.Panwar,
(4) Vineed Rastogi S/o Kailash Chand Rastogi,
2 to 4 working as Junior Engineers
With Mussoorie-Dehradun Development
Authority, Dehradun.

..... Petitioners

Versus

(1) State of U.P. through the Secretary
(Housing) Government of U.P. Vikas
Bhawan, Janpath Market, Lucknow,
(2) Mussoorie-Dehradun Development Authority,
Dehradun through it Vice Chairman,
(3)Executive Engineer, Mussoorie-Dehradun
(4)Secretary, Mussoorie-Dehradun,
Development Authority, Dehradun,
(5) Accounts Officer, Mussoorie-Dehradun
Development Authority, Dehradun.

..... Respondents.

Sri Manoj Tewari, learned counsel for the petitioners.
Sri S. Dhulia Sr.Advocate, learned counsel for the respondent No. 1.

.....

Dated: 20th Aug., 2004.

Hon'ble P.C. Verma,J.
Hon'ble B.S.Verma,J.

By means of this writ petition, the petitioners seek a writ of mandamus to command the respondent to regularize their services on account o f their long past

service. A bunch of writ petitions including this petition were filed at Allahabad. Other writ petitions were disposed of by the Learned Singh Judge, vide judgment his dated 08.09.1997 against which several special appeals were filed. This writ petition was left out from the bunch. The special appeals were decided on 20.06.2000. In these appeals question relating to regularisaiton of Junior Engineers who were ad hoc or daily wagers. The Division Bench, while deciding the bunch of special of appeals, framed 11 questions which are reproduced as under:

1. *"What is the exact nature of appointments of Junior Engineers in development authorities of the State? Can they not be termed ad hoc appointee?*

2. *Whether the appointments of Junior Engineers, not being in accordance with the provisions of Centralised Service Rules, they cannot be regularised under Rules 20 –A of the Rules?*

3. *Whether the exercise for regularisation could be legally carried out de hors Rule 20 –A of the Rules and ignoring procedure provided therein?*

4. *Whether Ruled 20-A suffers from any illegality and constitutional infirmity as held by Learned Single Judge?*

5. *Whether the alleged regularisation could be again for appointment on ad hoc basis though on regular basis?*

6. *Whether the exercise carried out for regularisation of the Junior Engineers being under orders of Hon'ble Supreme Court observance of Rule 20-A was not necessary?*

7. *Whether the procedure adopted by the screening committee for selecting candidates for regularisation was illegal and arbitrary and is liable to be quashed*

being in contravention of the procedure provided in Rule 20-A of the Rules?

8. *Whether the judgment of Learned Single Judge is liable to be set aside as it has been passed without affording any opportunity of hearing to the Junior Engineers who had been found suitable and selected for appointment on regular basis and as they were not parties in writ petitions decided by Learned Single Judge?*

9. *Whether the impugned judgment of Learned Single Judge cannot be sustained and is liable to be set aside as Learned Single Judge entered into the questions of validity of Rule 20-A and selection proceedings for which there were no pleadings and challenge in the writ petitions?*

10. *Whether the judgment of Learned Single Judge is liable to be set aside as Learned Single Judge failed to consider and decide the question of illegal termination of the petitioners by Allahabad Development Authority which was specifically challenged by the petitioners?*

11. *To what relief, if any, the present appellant are entitled to in present special appeals?"*

The cases of Junior Engineers of Development Authorities of Dehradun and Nainital were also considered and decided.

The Division Bench of this Court after referring the case ***State of Haryana & others versus Piara Singh & others,*** A.I.R. 1992 Supreme Court, 2130 in respect of work charge employee, daily wage workers and casual labour held in para 19 that, *"these categorie continuing over a number of years have a right to claim regularisation and the authorities are under and obligation to consider their case for regularisation in a fair manner, keeping in view the*

principles enunciated by this Court" and question Nos. 1 to 7 and 9 were decided accordingly.

Learned counsel for the petitioners submits that the case of the petitioners is squarely covered even if they

are treated to be daily wage workers as has been held by the State Government in its order dated 28th June, 2004, by which the representation of the petitioners has been rejected. Therefore, the learned counsel for the petitioners submits that the State Government may be directed to re-consider the case of the petitioners in the light of the aforesaid judgment of the Division Bench.

The petition is disposed of finally with the direction that the petitioners shall make a detailed representation afresh annexing therewith the copy of aforesaid judgment of the Division Bench as we have held that the case of the petitioners is also covered with the said judgment.

Learned counsel for the State assured that the representation of the petitioners shall be decided in terms of the aforesaid judgment fairly within a reasonable time.

(B.S. Verma,J.) **(P.C. Verma,J.)**

P.Singh